

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION :
CORPORATION, :

Plaintiff, :

-against- :

BERNARD L. MADOFF INVESTMENT :
SECURITIES LLC, :

Defendant. :

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In re: :

BERNARD L. MADOFF, :

Debtor. :

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IRVING H. PICARD, trustee for the liquidation :
of Bernard L. Madoff Investment Securities :
LLC :

Plaintiff, :

-against- :

TRUST U/ART FOURTH O/W/O/ ISRAEL :
WILENITZ, *et al.* :

Defendants. :

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ORDER GRANTING LEAVE TO APPEAL DISCOVERY ARBITRATOR'S
JANUARY 2, 2019 ORDER

WHEREAS, the Court entered an *Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390*, dated October 4, 2016 (as amended, the "Order Appointing Arbitrator") (ECF Adv. Proc. No. 08-1789 Doc. # 14227) appointing Frank Maas, Esq. (the "Discovery Arbitrator") as arbitrator to resolve discovery disputes that are referred to him by the Court with the consent of the parties to the dispute;

WHEREAS, the parties to the above-referenced adversary proceeding stipulated to submit various discovery disputes to the Discovery Arbitrator, and the Court so-ordered the stipulation. (*See Stipulated Order Approving the Special Discovery Arbitrator*, dated Oct. 17, 2016 (ECF Adv. Proc. No. 10-04995 Doc. # 75).)

WHEREAS, the Discovery Arbitrator issued the *Discovery Arbitrator's Order*, docketed Jan. 2, 2019 ("January 2019 Order") (ECF Adv. Proc. No. 10-04995 Doc. # 125), which denied the Defendants' application to compel discovery.

WHEREAS, the Defendants submitted the *Letter of Helen Davis Chaitman, Esq.*, dated Jan. 16, 2019 (ECF Adv. Proc. No. 10-04995 Doc. # 126) seeking permission to appeal the January 2019 Order to this Court.

IT IS ORDERED, that the Defendants are granted leave to appeal the January 2019 Order as set forth herein; it is further

ORDERED, that the Defendants shall file a designation of items to be included in the record on appeal and a statement of issues to be presented ("Appellants' Designation and Statement") within thirty days of the date of entry of this Order; it is further

ORDERED, that the Defendants shall file a brief ("Appellants' Brief"), not to exceed forty pages, within thirty days of the date of entry of this Order; it is further

ORDERED, that the Plaintiff shall file a designation of additional items to be included in the record within fourteen days of the filing of the Appellants' Designation and Statement; it is further

ORDERED, that the Plaintiff shall file a brief ("Appellee's Brief"), not to exceed forty pages, within fourteen days of the filing of the Appellants' Brief; it is further

ORDERED, that the Defendants may file a reply brief, not to exceed twenty pages, within seven days of the filing of the Appellee's Brief; it is further

ORDERED, that, in accordance with ¶ 10 of the Order Appointing Arbitrator, legal conclusions will be reviewed *de novo* and other matters will be reviewed in accordance with standards deemed appropriate in the Court's discretion; it is further

ORDERED, that the Court may schedule oral argument to the extent necessary after the conclusion of briefing.

Dated: New York, New York
February 15th, 2019

/s/ **STUART M. BERNSTEIN**
STUART M. BERNSTEIN
United States Bankruptcy Judge